

# DRAFT

## Federal Operating Permit Article 1

This permit is based upon the requirements of Title V of the Federal Clean Air Act and Chapter 80, Article 1 of the Commonwealth of Virginia Regulations for the Control and Abatement of Air Pollution. Until such time as this permit is reopened and revised, modified, revoked, terminated or expires, the permittee is authorized to operate in accordance with the terms and conditions contained herein. This permit is issued under the authority of Title 10.1, Chapter 13, §10.1-1322 of the Air Pollution Control Law of Virginia. This permit is issued consistent with the Administrative Process Act, and 9 VAC 5-80-50 through 9 VAC 5-80-300 of the State Air Pollution Control Board Regulations for the Control and Abatement of Air Pollution of the Commonwealth of Virginia.

Authorization to operate a Stationary Source of Air Pollution as described in this permit is hereby granted to:

Permittee Name:	Shenandoah County
Facility Name:	Shenandoah County Sanitary Landfill
Facility Location:	349 Landfill Road Edinburg, Virginia
Registration Number:	81401
Permit Number:	VRO81401

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Effective Date

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Expiration Date

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Director, Department of Environmental Quality

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Signature Date

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## **I. Facility Information**

### **Permittee**

Shenandoah County  
P.O. Box 452  
Woodstock, VA 22664

### **Responsible Official**

Mr. Vincent Poling  
County Administrator

### **Facility**

Shenandoah County Sanitary landfill  
349 Landfill Road  
Edinburg, Virginia 22824

### **Contact Person**

Mr. Henry Mikus  
Director, Department of Solid Waste Management  
(540) 984-8573

**Plant Identification Number: 51-139-0027**

### **Facility Description: SIC Code 4953 – Refuse Systems**

The Shenandoah County Sanitary Landfill is a municipal solid waste (MSW) management facility located approximately three miles north of Edinburg, Virginia. The total area within the facility boundary is approximately 214 acres. The first landfill cells constructed and approved under the Virginia Department of Health (VDH) Permit No. 78 are at the extreme southern property boundary and were opened in 1972 and closed in 1987 (designated as EU-1). Of the 68 acres of available disposal area remaining, approximately 30 acres are occupied by the old closed cells (closed in 1995 and designated as EU-2), and the recently closed area (closed in 2003 and designated as EU-3). The remaining 38 acres are occupied by the expansion area cell (designated as EU-4) which was opened in 2003 and is currently accepting waste. The parcels containing these four waste management units (EU-1, EU-2, EU-3 and EU-4) are contiguous and county-owned property, hence all four units are considered as a single disposal facility.

## II. Emission Units

Equipment to be operated consists of:

Emission Unit ID	Stack ID	Emission Unit Description	Size/Rated Capacity*	Pollution Control Device Description (PCD)	PCD ID	Pollutant Controlled	Applicable Permit Date**
<b>Landfills</b>							
EU-1	F-1	Closed (1987) MSW Landfill – VDH Permit No. 78	1,067,685 cubic yard	-	-	-	08/06/04
EU-2	F-2	Old Closed (1995) MSW Landfill – VDEQ Permit No. 469	1,505,203 cubic yard	-	-	-	08/06/04
EU-3	F-3	Recently Closed (2003) MSW Landfill – VDEQ Permit No. 469	188,084 cubic yard	-	-	-	08/06/04
EU-4	F-4	Landfill Expansion Cell (Opened 2003) – VDEQ Permit No. 469	3,696,740 cubic yard	-	-	-	08/06/04
<b>Landfill Surface and Roads</b>							
EU-5	F-5	MSW Landfill Surface and Access Roads	-	-	-	-	08/06/04

\*The Size/Rated capacity is provided for informational purposes only, and is not an applicable requirement.

\*\*Permit issued on 08/06/04.

### III. Landfill Requirements – (Emission Units EU-1, EU-2, EU-3 & EU-4)

#### A. Limitations

1. The design capacity of the MSW landfill shall not exceed 4.94 million cubic meters. A change in the design capacity may require a permit to modify and operate.  
(9 VAC 5-80-110 and Condition 3 of 08/06/04 Permit)
2. The permittee shall install a landfill gas (LFG) collection and control system that captures the gas generated within the landfill as required by 40 CFR §60.752 (b)(2)(ii)(A) or (B) and 40 CFR §60.752 (b)(2)(iii) within 30 months after the first annual non-methane organic compounds (NMOC) emission rate report, required in Condition III.D.1., in which the NMOC emission rate equals or exceeds 50 megagrams per year, unless Tier 2 or Tier 3 sampling demonstrates that the NMOC emission rate is less than 50 megagrams per year.  
(9 VAC 5-80-110 and Condition 4 of 08/06/04 Permit)

#### B. Monitoring and Recordkeeping

1. The permittee shall use either of the following equations (Equation 1 or Equation 2) to calculate the annual NMOC emission rate. The default values to be used in both equations are 0.05 per year for k, 170 cubic meters per megagram for  $L_O$ , and 4000 parts per million by volume as hexane for  $C_{NMOC}$ . If obtained, the site-specific value for  $C_{NMOC}$ , as determined by using the procedure specified in Condition III.C.1., and/or the site-specific value for k, as determined by using the procedure specified in Condition III.C.2., shall be used in lieu of the default value for  $C_{NMOC}$  and/or k in calculating the NMOC emission rate.
  - a. Equation 1 shall be used if the actual year-to-year solid waste acceptance rate is known:

$$M_{NMOC} = \sum_{i=1}^n 2kL_O M_i (e^{-kt_i})(C_{NMOC})(3.6 \times 10^{-9})$$

.....Equation 1

$M_{NMOC}$  = total NMOC emission rate from the landfill, megagrams per year  
 $k$  = methane generation rate constant, year<sup>-1</sup>  
 $L_O$  = methane generation potential, cubic meters per megagram solid waste  
 $M_i$  = mass of solid waste in the  $i^{th}$  section, megagrams  
 $t_i$  = age of the  $i^{th}$  section, years  
 $C_{NMOC}$  = concentration of NMOC, parts per million by volume as hexane  
 $3.6 \times 10^{-9}$  = conversion factor

The mass of nondegradable solid waste may be subtracted from the total mass of solid waste in a particular section of the landfill when calculating the value for  $M_i$  if documentation of the nature and amount of such wastes is maintained.

- b. Equation 2 shall be used if the actual year-to-year solid waste acceptance rate is unknown:

$$M_{NMOC} = 2L_o R(e^{-kc} - e^{-kt})(C_{NMOC})(3.6 \times 10^{-9})$$

.....Equation 2

$M_{NMOC}$  = mass emission rate of NMOC from the landfill, megagrams per year  
 $L_o$  = methane generation potential, cubic meters per megagram solid waste  
 $R$  = average annual acceptance rate, megagrams per year  
 $k$  = methane generation rate constant, year<sup>-1</sup>  
 $t$  = age of the landfill, years  
 $C_{NMOC}$  = concentration of NMOC, parts per million by volume as hexane  
 $c$  = time since closure, years (for an active landfill  $c = 0$  and  $e^{-kc} = 1$ )  
 $3.6 \times 10^{-9}$  = conversion factor

The mass of nondegradable solid waste may be subtracted from the average annual acceptance rate when calculating a value for  $R$ , if documentation of the nature and amount of such wastes is maintained.

(9 VAC 5-80-110, 40 CFR §60.754 (a)(1) and Condition 7 of 08/06/04 Permit)

2. The permittee shall maintain records of all emission data and operating parameters necessary to demonstrate compliance with this permit. The content of and format of such records shall be arranged with the Director, Valley Region. These records shall include, but are not limited to:
  - a. Readily accessible, on-site records of the maximum design capacity.
  - b. Annual calculated mass emission rate of NMOC from the landfill.
  - c. The current amount of solid waste in-place.
  - d. The year-by-year or average waste acceptance rate.
  - e. Site-specific values for  $C_{NMOC}$  and  $k$ , if obtained.
  - f. Age of landfill.
  - g. Description, location, amount, and placement date of all nondegradable refuse including asbestos and demolition refuse placed in landfill areas, which are excluded from landfill gas estimation.

- h. Installation date and location of all vents.

These records shall be available for inspection by the DEQ and shall be current for the most recent five years. Off-site records may be maintained if they are retrievable within 4 hours. Either paper copy or electronic formats are acceptable.

(9 VAC 5-80-110, 40 CFR §60.758 and Condition 14 of 08/06/04 Permit)

### C. Testing

1. When determining the Tier 2 site-specific NMOC concentration, the permittee shall use the following sampling procedure. The permittee shall install at least two sample probes per hectare of landfill surface that has retained waste for at least 2 years. If the landfill is larger than 25 hectares in area, only 50 samples are required. The sample probes should be located to avoid known areas of nondegradable solid waste. The permittee shall collect and analyze one sample of landfill gas from each probe to determine the NMOC concentration using Method 25C of Appendix A of 40 CFR Part 60 or Method 18 of Appendix A of 40 CFR Part 60. If using Method 18 of Appendix A of 40 CFR Part 60, the minimum list of compounds to be tested shall be those published in the most recent Compilation of Air Pollutant Emission Factors (AP-42). If composite sampling is used, equal volumes shall be taken from each sample probe. If more than the required number of samples are taken, all samples shall be used in the analysis. The permittee shall divide the NMOC concentration from Method 25C of Appendix A of 40 CFR Part 60 by six to convert from  $C_{\text{NMOC}}$  as carbon to  $C_{\text{NMOC}}$  as hexane.

(9 VAC 5-80-110, 40 CFR §60.754 (a)(3) and Condition 10 of 08/06/04 Permit)

2. The Tier 3 site-specific methane generation rate constant shall be determined using the procedure provided in 40 CFR Part 60, Appendix A, Method 2E.

(9 VAC 5-80-110, 40 CFR §60.754 (a)(4) and Condition 11 of 08/06/04 Permit)

3. The permittee may use other methods to determine the NMOC concentration or a site-specific methane rate generation constant as an alternative to the methods required in Conditions III.C.1. and III.C.2. if the method has been approved by the Environmental Protection Agency (EPA).

(9 VAC 5-80-110, 40 CFR §60.754 (a)(5) and Condition 12 of 08/06/04 Permit)

### D. Reporting

1. Not later than April 15 of each year, the permittee must submit an annual NMOC emission rate report to the Director, Valley Region. The NMOC emission rate shall be calculated in accordance with the methodology contained in Condition III.B.1. The report shall include all data, calculations, sample reports and measurements used to estimate the emissions.

(9 VAC 5-80-110, 40 CFR §60.757 (b) and Condition 15 of 08/06/04 Permit)

2. If the reported NMOC emission rate, in the annual report, is equal to or exceeds 50 megagrams per year, the permittee shall:
  - a. Submit a landfill gas (LFG) collection and control system design plan as per 40 CFR §60.752 (b)(2); or
  - b. Within 180 days of the emission rate report in Condition III.D.1., demonstrate, using a site-specific NMOC concentration (Tier 2), that NMOC emissions do not equal or exceed 50 megagrams per year, submit a revised NMOC emission rate report, resume annual NMOC emission rate reporting, and retest the site-specific NMOC concentration every 5 years.

(9 VAC 5-80-110, 40 CFR §60.752 (b)(2), 40 CFR §60.757 (c)(1) and Condition 16 of 08/06/04 Permit)

3. If, using a site-specific NMOC concentration, the NMOC emission rate is equal to or exceeds 50 megagrams per year, the permittee shall:
  - a. Submit a LFG collection and control system design plan as per 40 CFR §60.752 (b)(2), or
  - b. Within 1 year of the emission rate report in Condition III.D.1., demonstrate using a site-specific methane generation constant (Tier 3), that NMOC emissions do not equal or exceed 50 megagrams per year, submit a revised NMOC emission rate report and resume annual NMOC emission rate reporting.

(9 VAC 5-80-110, 40 CFR §60.752 (b)(2), 40 CFR §60.757 (c)(2) and Condition 17 of 08/06/04 Permit)

4. The LFG collection and control system design plan required by Condition III.D.2. or Condition III.D.3. shall be submitted to the Director, Valley Region, within one year after submitting the NMOC emission rate report required in Condition III.D.1., reporting an NMOC emission rate which equals or exceeds 50 megagrams per year.  
(9 VAC 5-80-110, 40 CFR §60.752 (b)(2)(i) and Condition 18 of 08/06/04 Permit)
5. If the permittee is required to install a gas collection and control system according to the provisions of 9 VAC 5-50-410 Subpart WWW, the permittee shall apply for a solid waste permit amendment in accordance with Part VII (9 VAC 20-80-480 et seq.) of 9 VAC 20 Chapter 80 (Solid Waste Management Regulations).  
(9 VAC 5-80-110 and Condition 19 of 08/06/04 Permit)
6. The permittee shall submit a closure report to the Director, Valley Region, within 30 days of the date the MSW landfill stopped accepting waste.  
(9 VAC 5-80-110, 40 CFR §60.757 (d) and Condition 20 of 08/06/04 Permit)



## **IV. Facility Wide Conditions**

### **A. Limitations**

1. Visible emissions from the facility shall not exceed 20% opacity as determined by EPA Method 9 (reference 40 CFR Part 60, Appendix A), except for one six-minute period in any one hour which shall not exceed 30% opacity.  
(9 VAC 5-80-110 and Condition 8 of 08/06/04 Permit)
2. Unless otherwise specified, fugitive dust emission controls shall include the following or equivalent as a minimum:
  - a. Dust from grading, cell construction, waste compaction, application of daily cover, wood waste chipping operations, storage piles and traffic areas shall be controlled by wet suppression or equivalent (as approved by the DEQ) control measures.
  - b. All material being stockpiled shall be kept moist to control dust during storage and handling, or covered to minimize emissions.
  - c. Dust from haul roads shall be controlled by wet suppression and prompt removal of dried sediment resulting from soil erosion and dirt spilled or tracked onto paved surfaces within the landfill.
  - d. Reasonable precautions shall be taken to prevent deposition of dirt on public roads and subsequent dust emissions. Dirt spilled or tracked onto paved surfaces shall be promptly removed to prevent particulate matter from becoming airborne.

(9 VAC 5-80-1180 and Condition 5 of 08/06/04 Permit)

3. In order to minimize the duration and frequency of excess emissions, the permittee shall implement the DEQ-approved Dust Control Plan which outlines the preventive measures to be implemented for dust control at the landfill. The plan shall include the following minimum requirements as approved by DEQ:
  - a. Identification of the personnel responsible for overseeing dust control.
  - b. Description and the frequency of measures to be taken to prevent excess emissions from grading, cell construction, waste compaction and daily cover application.
  - c. Description and the frequency of measures to be taken to prevent excess emissions from storage piles and stockpiling operations.

- d. Description and the frequency of measures to be taken to prevent dust from haul roads and other unpaved surfaces, and description and the frequency of measures to be taken to prevent deposition of dirt on paved surfaces within the landfills and access roads entering the landfill.

(9 VAC 5-80-110 and Condition 6 of 08/06/04 Permit)

## **B. Monitoring and Recordkeeping**

1. At least daily, the permittee shall visually survey the trafficable roads at the site and landfill activities for any sources of excessive fugitive emissions. For the purpose of this survey, excessive emissions are considered to be any visible emissions that leave the facility site boundaries. The presence of excessive fugitive emissions shall require further investigation as to the cause of the emissions and timely corrective action shall be taken. If water is used to control the fugitive dust emissions, the permittee shall take care not to create a water quality problem from surface water runoff. All observations and corrective actions taken shall be logged and recorded.

(9 VAC 5-80-110 and Condition 13 of 08/06/04 Permit)

2. The permittee shall maintain records of all emission data and operating parameters necessary to demonstrate compliance with this permit. The content of and format of such records shall be arranged with the Director, Valley Region. These records shall include, but are not limited to:

- a. A copy of the DEQ-approved Dust Control Plan.
- b. Daily logs of the visual survey of the trafficable roads at the site and landfill activities to include the following:

- (1) The date, time, and name of the person performing each inspection;
- (2) Whether or not excessive fugitive emissions are observed and the suspected cause of such emissions; and
- (3) The date, time, and type of corrective actions taken.

These records shall be available for inspection by the DEQ and shall be current for the most recent five years. Off-site records may be maintained if they are retrievable within 4 hours. Either paper copy or electronic formats are acceptable.

(9 VAC 5-80-110 and Condition 14 of 08/06/04 Permit)

**C. Testing**

If testing is conducted in addition to the monitoring specified in this permit, the permittee shall use the following methods in accordance with procedures approved by the DEQ as follows:

Pollutant	Test Method (40 CFR Part 60, Appendix A)
Visible Emission	EPA Method 9 and 22

(9 VAC 5-80-110)

**V. Insignificant Emission Units**

The following emission units at the facility are identified in the application as insignificant emission units under 9 VAC 5-80-720:

Emission Unit No.	Emission Unit Description	Citation	Pollutant(s) Emitted (9 VAC 5-80-720 B)	Rated Capacity (9 VAC 5-80-720 C)
EU-6	MSW Leachate Storage lagoon	9 VAC 5-80-720 B	VOC	-
EU-7	Two (2) Diesel-fired Wood Chippers	9 VAC 5-80-720 B	NO <sub>x</sub> , CO, SO <sub>2</sub> , PM-10 and VOC	-
EU-8	Diesel-fired Tire Shredder	9 VAC 5-80-720 B	NO <sub>x</sub> , CO, SO <sub>2</sub> , PM-10 and VOC	-
EU-9	Above Ground Fuel Storage Tanks	9 VAC 5-80-720 B	VOC	-
EU-10	Co-compost Facility	9 VAC 5-80-720 B	VOC	-

These emission units are presumed to be in compliance with all requirements of the federal Clean Air Act as may apply. Based on this presumption, no monitoring, recordkeeping, or reporting shall be required for these emission units in accordance with 9 VAC 5-80-110.

## VI. Permit Shield & Inapplicable Requirements

Compliance with the provisions of this permit shall be deemed compliance with all applicable requirements in effect as of the permit issuance date as identified in this permit. This permit shield covers only those applicable requirements covered by terms and conditions in this permit and the following requirements which have been specifically identified as being not applicable to this permitted facility:

Citation	Title of Citation	Description of Applicability
40 CFR 63, Subpart AAA	National Emission Standards for Hazardous Air Pollutants for Municipal Solid Waste Landfills	This standard does not apply because this facility is not (1) a major source of hazardous air pollutants (HAPs); (2) collocated with a major source of HAPs; (3) an area source with a design capacity greater than or equal to 2.5 million m <sup>3</sup> and 2.5 million Mg with estimated uncontrolled NMOC emissions equal to or greater than 50 Mg/yr; or (4) an active area source landfill with a design capacity greater than or equal to 2.5 million m <sup>3</sup> and 2.5 million Mg that operates an anaerobic bioreactor.

Nothing in this permit shield shall alter the provisions of §303 of the federal Clean Air Act, including the authority of the administrator under that section, the liability of the owner for any violation of applicable requirements prior to or at the time of permit issuance, or the ability to obtain information by the administrator pursuant to §114 of the federal Clean Air Act, (ii) the Board pursuant to §10.1-1314 or §10.1-1315 of the Virginia Air Pollution Control Law or (iii) the Department pursuant to §10.1-1307.3 of the Virginia Air Pollution Control Law.  
(9 VAC 5-80-140)

## **VII. General Conditions**

### **A. Federal Enforceability**

All terms and conditions in this permit are enforceable by the administrator and citizens under the federal Clean Air Act, except those that have been designated as only state-enforceable.

(9 VAC 5-80-110 N)

### **B. Permit Expiration**

This permit has a fixed term of five years. The expiration date shall be the date five years from the date of issuance. Unless the owner submits a timely and complete application for renewal to the Department consistent with the requirements of 9 VAC 5-80-80, the right of the facility to operate shall be terminated upon permit expiration.

1. The owner shall submit an application for renewal at least six months but no earlier than eighteen months prior to the date of permit expiration.
2. If an applicant submits a timely and complete application for an initial permit or renewal under this section, the failure of the source to have a permit or the operation of the source without a permit shall not be a violation of Article 1, Part II of 9 VAC 5 Chapter 80, until the Board takes final action on the application under 9 VAC 5-80-150.
3. No source shall operate after the time that it is required to submit a timely and complete application under subsections C and D of 9 VAC 5-80-80 for a renewal permit, except in compliance with a permit issued under Article 1, Part II of 9 VAC 5 Chapter 80.
4. If an applicant submits a timely and complete application under section 9 VAC 5-80-80 for a permit renewal but the Board fails to issue or deny the renewal permit before the end of the term of the previous permit, (i) the previous permit shall not expire until the renewal permit has been issued or denied and (ii) all the terms and conditions of the previous permit, including any permit shield granted pursuant to 9 VAC 5-80-140, shall remain in effect from the date the application is determined to be complete until the renewal permit is issued or denied.
5. The protection under subsections F 1 and F 5 (ii) of section 9 VAC 5-80-80 F shall cease to apply if, subsequent to the completeness determination made pursuant to section 9 VAC 5-80-80 D, the applicant fails to submit by the deadline specified in writing by the Board any additional information identified as being needed to process the application.

(9 VAC 5-80-80 B, C and F, 9 VAC 5-80-110 D and 9 VAC 5-80-170 B)

### C. Recordkeeping and Reporting

1. All records of monitoring information maintained to demonstrate compliance with the terms and conditions of this permit shall contain, where applicable, the following:
  - a. The date, place as defined in the permit, and time of sampling or measurements.
  - b. The date(s) analyses were performed.
  - c. The company or entity that performed the analyses.
  - d. The analytical techniques or methods used.
  - e. The results of such analyses.
  - f. The operating conditions existing at the time of sampling or measurement.

(9 VAC 5-80-110 F)

2. Records of all monitoring data and support information shall be retained for at least five years from the date of the monitoring sample, measurement, report, or application. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit.

(9 VAC 5-80-110 F)

3. The permittee shall submit the results of monitoring contained in any applicable requirement to DEQ no later than **March 1** and **September 1** of each calendar year. This report must be signed by a responsible official, consistent with 9 VAC 5-80-80 G, and shall include:

- a. The time period included in the report. The time periods to be addressed are January 1 to June 30 and July 1 to December 31.
- b. All deviations from permit requirements. For purposes of this permit, deviations include, but are not limited to:

- (1) Exceedance of emissions limitations or operational restrictions;
- (2) Excursions from control device operating parameter requirements, as documented by continuous emission monitoring, periodic monitoring, or compliance assurance monitoring which indicates an exceedance of emission limitations or operational restrictions; or,
- (3) Failure to meet monitoring, recordkeeping, or reporting requirements contained in this permit.

- c. If there were no deviations from permit conditions during the time period, the permittee shall include a statement in the report that “no deviations from permit requirements occurred during this semi-annual reporting period.”

(9 VAC 5-80-110 F)

#### **D. Annual Compliance Certification**

Exclusive of any reporting required to assure compliance with the terms and conditions of this permit or as part of a schedule of compliance contained in this permit, the permittee shall submit to EPA and DEQ no later than **March 1** each calendar year a certification of compliance with all terms and conditions of this permit including emission limitation standards or work practices. The compliance certification shall comply with such additional requirements that may be specified pursuant to §114(a)(3) and §504(b) of the federal Clean Air Act. This certification shall be signed by a responsible official, consistent with 9 VAC 5-80-80 G, and shall include:

1. The time period included in the certification. The time period to be addressed is January 1 to December 31.
2. The identification of each term or condition of the permit that is the basis of the certification.
3. The compliance status.
4. Whether compliance was continuous or intermittent, and if not continuous, documentation of each incident of non-compliance.
5. Consistent with subsection 9 VAC 5-80-110 E, the method or methods used for determining the compliance status of the source at the time of certification and over the reporting period.
6. Such other facts as the permit may require to determine the compliance status of the source.

One copy of the annual compliance certification shall be sent to EPA at the following address:

Clean Air Act Title V Compliance Certification (3AP00)  
U. S. Environmental Protection Agency, Region III  
1650 Arch Street  
Philadelphia, PA 19103-2029.

(9 VAC 5-80-110 K.5)



**E. Permit Deviation Reporting**

The permittee shall notify the Director, Valley Region, within four daytime business hours, after discovery of any deviations from permit requirements which may cause excess emissions for more than one hour, including those attributable to upset conditions as may be defined in this permit. In addition, within 14 days of the discovery, the permittee shall provide a written statement explaining the problem, any corrective actions or preventative measures taken, and the estimated duration of the permit deviation. The occurrence should also be reported in the next semi-annual compliance monitoring report pursuant to General Condition VII.C.3. of this permit.

(9 VAC 5-80-110 F.2 and 9 VAC 5-80-250)

**F. Failure/Malfunction Reporting**

In the event that any affected facility or related air pollution control equipment fails or malfunctions in such a manner that may cause excess emissions for more than one hour, the owner shall, as soon as practicable but no later than four daytime business hours after the malfunction is discovered, notify the Director, Valley Region, by facsimile transmission, telephone or telegraph of such failure or malfunction and shall within 14 days of discovery provide a written statement giving all pertinent facts, including the estimated duration of the breakdown. When the condition causing the failure or malfunction has been corrected and the equipment is again in operation, the owner shall notify the Director, Valley Region.

(9 VAC 5-20-180 C)

**G. Severability**

The terms of this permit are severable. If any condition, requirement or portion of the permit is held invalid or inapplicable under any circumstance, such invalidity or inapplicability shall not affect or impair the remaining conditions, requirements, or portions of the permit.

(9 VAC 5-80-110 G.1)

**H. Duty to Comply**

The permittee shall comply with all terms and conditions of this permit. Any permit noncompliance constitutes a violation of the federal Clean Air Act or the Virginia Air Pollution Control Law or both and is grounds for enforcement action; for permit termination, revocation and reissuance, or modification; or, for denial of a permit renewal application.

(9 VAC 5-80-110 G.2)

**I. Need to Halt or Reduce Activity not a Defense**

It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

(9 VAC 5-80-110 G.3)

**J. Permit Modification**

A physical change in, or change in the method of operation of, this stationary source may be subject to permitting under State Regulations 9 VAC 5-80-50, 9 VAC 5-80-1100, 9 VAC 5-80-1790, or 9 VAC 5-80-2000 and may require a permit modification and/or revisions except as may be authorized in any approved alternative operating scenarios. (9 VAC 5-80-190 and 9 VAC 5-80-260)

**K. Property Rights**

The permit does not convey any property rights of any sort, or any exclusive privilege. (9 VAC 5-80-110 G.5)

**L. Duty to Submit Information**

1. The permittee shall furnish to the Board, within a reasonable time, any information that the Board may request in writing to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. Upon request, the permittee shall also furnish to the Board copies of records required to be kept by the permit and, for information claimed to be confidential, the permittee shall furnish such records to the Board along with a claim of confidentiality. (9 VAC 5-80-110 G.6)
2. Any document (including reports) required in a permit condition to be submitted to the Board shall contain a certification by a responsible official that meets the requirements of 9 VAC 5-80-80 G. (9 VAC 5-80-110 K.1)

**M. Duty to Pay Permit Fees**

The owner of any source for which a permit under 9 VAC 5-80-50 through 9 VAC 5-80-300 was issued shall pay permit fees consistent with the requirements of 9 VAC 5-80-310 through 9 VAC 5-80-350. The actual emissions covered by the permit program fees for the preceding year shall be calculated by the owner and submitted to the Department by **April 15** of each year. The calculations and final amount of emissions are subject to verification and final determination by the Department. (9 VAC 5-80-110 H and 9 VAC 5-80-340 C)

**N. Fugitive Dust Emission Standards**

During the operation of a stationary source or any other building, structure, facility, or installation, no owner or other person shall cause or permit any materials or property to be handled, transported, stored, used, constructed, altered, repaired, or demolished without taking reasonable precautions to prevent particulate matter from becoming airborne. Such reasonable precautions may include, but are not limited to, the following:

1. Use, where possible, of water or chemicals for control of dust in the demolition of existing buildings or structures, construction operations, the grading of roads, or the clearing of land;
2. Application of asphalt, water, or suitable chemicals on dirt roads, materials stockpiles, and other surfaces which may create airborne dust; the paving of roadways and the maintaining of them in a clean condition;
3. Installation and use of hoods, fans, and fabric filters to enclose and vent the handling of dusty material. Adequate containment methods shall be employed during sandblasting or other similar operations;
4. Open equipment for conveying or transporting material likely to create objectionable air pollution when airborne shall be covered or treated in an equally effective manner at all times when in motion; and,
5. The prompt removal of spilled or tracked dirt or other materials from paved streets and of dried sediments resulting from soil erosion.

(9 VAC 5-40-90 and 9 VAC 5-50-90)

**O. Startup, Shutdown, and Malfunction**

At all times, including periods of startup, shutdown, soot blowing, and malfunction, owners shall, to the extent practicable, maintain and operate any affected facility including associated air pollution control equipment in a manner consistent with air pollution control practices for minimizing emissions. Determination of whether acceptable operating and maintenance procedures are being used will be based on information available to the Board, which may include, but is not limited to, monitoring results, opacity observations, review of operating and maintenance procedures, and inspection of the source.

(9 VAC 5-50-20 E and 9 VAC 5-40-20 E)

**P. Alternative Operating Scenarios**

Contemporaneously with making a change between reasonably anticipated operating scenarios identified in this permit, the permittee shall record in a log at the permitted facility a record of the scenario under which it is operating. The permit shield described

in 9 VAC 5-80-140 shall extend to all terms and conditions under each such operating scenario. The terms and conditions of each such alternative scenario shall meet all applicable requirements including the requirements of 9 VAC 5 Chapter 80, Article 1. (9 VAC 5-80-110 J)

#### **Q. Inspection and Entry Requirements**

The permittee shall allow DEQ, upon presentation of credentials and other documents as may be required by law, to perform the following:

1. Enter upon the premises where the source is located or emissions-related activity is conducted, or where records must be kept under the terms and conditions of the permit.
2. Have access to and copy, at reasonable times, any records that must be kept under the terms and conditions of the permit.
3. Inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit.
4. Sample or monitor at reasonable times substances or parameters for the purpose of assuring compliance with the permit or applicable requirements.

(9 VAC 5-80-110 K.2)

#### **R. Reopening For Cause**

The permit shall be reopened by the Board if additional federal requirements become applicable to a major source with a remaining permit term of three years or more. Such reopening shall be completed no later than 18 months after promulgation of the applicable requirement. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire, unless the original permit or any of its terms and conditions has been extended pursuant to 9 VAC 5-80-80 F.

1. The permit shall be reopened if the Board or the administrator determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards or other terms or conditions of the permit.
2. The permit shall be reopened if the administrator or the Board determines that the permit must be revised or revoked to assure compliance with the applicable requirements.

3. The permit shall not be reopened by the Board if additional applicable state requirements become applicable to a major source prior to the expiration date established under 9 VAC 5-80-110 D.

(9 VAC 5-80-110 L)

#### **S. Permit Availability**

Within five days after receipt of the issued permit, the permittee shall maintain the permit on the premises for which the permit has been issued and shall make the permit immediately available to DEQ upon request.

(9 VAC 5-80-150 E)

#### **T. Transfer of Permits**

1. No person shall transfer a permit from one location to another, unless authorized under 9 VAC 5-80-130, or from one piece of equipment to another.

(9 VAC 5-80-160)

2. In the case of a transfer of ownership of a stationary source, the new owner shall comply with any current permit issued to the previous owner. The new owner shall notify the Board of the change in ownership within 30 days of the transfer and shall comply with the requirements of 9 VAC 5-80-200.

(9 VAC 5-80-160)

3. In the case of a name change of a stationary source, the owner shall comply with any current permit issued under the previous source name. The owner shall notify the Board of the change in source name within 30 days of the name change and shall comply with the requirements of 9 VAC 5-80-200.

(9 VAC 5-80-160)

#### **U. Malfunction as an Affirmative Defense**

1. A malfunction constitutes an affirmative defense to an action brought for noncompliance with technology-based emission limitations if the requirements of paragraph 2 of this condition are met.
2. The affirmative defense of malfunction shall be demonstrated by the permittee through properly signed, contemporaneous operating logs, or other relevant evidence that show the following:
  - a. A malfunction occurred and the permittee can identify the cause or causes of the malfunction.
  - b. The permitted facility was at the time being properly operated.

- c. During the period of the malfunction the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission standards, or other requirements in the permit.
  - d. The permittee notified the Board of the malfunction within two working days following the time when the emission limitations were exceeded due to the malfunction. This notification shall include a description of the malfunction, any steps taken to mitigate emissions, and corrective actions taken. The notification may be delivered either orally or in writing. The notification may be delivered by electronic mail, facsimile transmission, telephone, or any other method that allows the permittee to comply with the deadline. This notification fulfills the requirements of 9 VAC 5-80-110 F.2.b to report promptly deviations from permit requirements. This notification does not release the permittee from the malfunction reporting requirement under 9 VAC 5-20-180 C.
3. In any enforcement proceeding, the permittee seeking to establish the occurrence of a malfunction shall have the burden of proof.
  4. The provisions of this section are in addition to any malfunction, emergency or upset provision contained in any applicable requirement.

(9 VAC 5-80-250)

#### **V. Permit Revocation or Termination for Cause**

A permit may be revoked or terminated prior to its expiration date if the owner knowingly makes material misstatements in the permit application or any amendments thereto or if the permittee violates, fails, neglects or refuses to comply with the terms or conditions of the permit, any applicable requirements, or the applicable provisions of 9 VAC 5 Chapter 80, Article 1. The Board may suspend, under such conditions and for such period of time as the Board may prescribe any permit for any of the grounds for revocation or termination or for any other violations of these regulations.

(9 VAC 5-80-190 C and 9 VAC 5-80-260)

#### **W. Duty to Supplement or Correct Application**

Any applicant who fails to submit any relevant facts or who has submitted incorrect information in a permit application shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrections. An applicant shall also provide additional information as necessary to address any requirements that become applicable to the source after the date a complete application was filed but prior to release of a draft permit.

(9 VAC 5-80-80 E)

## **X. Stratospheric Ozone Protection**

If the permittee handles or emits one or more Class I or II substances subject to a standard promulgated under or established by Title VI (Stratospheric Ozone Protection) of the federal Clean Air Act, the permittee shall comply with all applicable sections of 40 CFR Part 82, Subparts A to F.  
(40 CFR Part 82, Subparts A-F)

## **Y. Asbestos Requirements**

The permittee shall comply with the requirements of National Emissions Standards for Hazardous Air Pollutants (40 CFR 61) Subpart M, National Emission Standards for Asbestos as it applies to the following: Standards for Demolition and Renovation (40 CFR 61.145), Standards for Insulating Materials (40 CFR 61.148), and Standards for Waste Disposal (40 CFR 61.150).  
(9 VAC 5-60-70 and 9 VAC 5-80-110 A.1)

## **Z. Accidental Release Prevention**

If the permittee has more, or will have more than a threshold quantity of a regulated substance in a process, as determined by 40 CFR 68.115, the permittee shall comply with the requirements of 40 CFR Part 68.  
(40 CFR Part 68)

## **AA. Changes to Permits for Emissions Trading**

No permit revision shall be required under any federally approved economic incentives, marketable permits, emissions trading and other similar programs or processes for changes that are provided for in this permit.  
(9 VAC 5-80-110 I)

## **BB. Emissions Trading**

Where the trading of emissions increases and decreases within the permitted facility is to occur within the context of this permit and to the extent that the regulations provide for trading such increases and decreases without a case-by-case approval of each emissions trade:

1. All terms and conditions required under 9 VAC 5-80-110, except subsection N, shall be included to determine compliance.
2. The permit shield described in 9 VAC 5-80-140 shall extend to all terms and conditions that allow such increases and decreases in emissions.

3. The owner shall meet all applicable requirements including the requirements of 9 VAC 5-80-50 through 9 VAC 5-80-300.

(9 VAC 5-80-110 I)